

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK,**

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APTIVE ENVIRONMENTAL, LLC,

Plaintiff,

- against -

VILLAGE OF EAST ROCKAWAY, NEW
YORK,

Defendant.

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JUDGMENT

CV 19-3365 (SJF)SIL)

An Order of Honorable Sandra J. Feuerstein, United States District Judge, having been filed on March 5, 2021, accepting in its entirety the December 23, 2020 Report and Recommendation of United States Magistrate Judge Steven I. Locke; (i) denying in its entirety defendant Village of East Rockaway, New York's ("the Village") motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure seeking to dismiss plaintiff Aptive Environmental LLC's ("Aptive") claims in the second amended complaint; (ii) granting Aptive's cross-motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure on its claims in the second amended complaint seeking (A) judgment declaring that the Village's Solicitation Fee, found at §§ 171-3 and 171-5(A) of the Village Code, violates the First Amendment rights of Aptive, others similarly situated, and Village residents, both facially and as applied, and (B) a permanent injunction barring enforcement of the Solicitation Fee; and (iii) granting Aptive a judgment as a matter of law (A) declaring that the Village's Solicitation Fee, found at §§ 171-3 and 171-5(A) of the Village Code, violates the First Amendment rights of Aptive, others similarly situated, and Village residents, both facially and as applied, and (B) permanently enjoining the Village, and its agents and employees, from enforcing the Solicitation

Fee found at §§ 171-3 and 171-5(A) of the Village Code against Aptive and others similarly situated; and an Order Dismissing Case of Honorable Sandra J. Feuerstein, United States District Judge, having been filed on March 19, 2021, dismissing plaintiff Aptive's remaining claim for damages, directing the Clerk of the Court to enter judgment in accordance with the March 5, 2021 Order and favor of defendant and close this case, it is

ORDERED AND ADJUDGED that the Village's motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure seeking to dismiss Aptive's claims in the second amended complaint is denied in its entirety; that Aptive's cross-motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure on its claims in the second amended complaint seeking (A) judgment declaring that the Village's Solicitation Fee, found at §§ 171-3 and 171-5(A) of the Village Code, violates the First Amendment rights of Aptive, others similarly situated, and Village residents, both facially and as applied, and (B) a permanent injunction barring enforcement of the Solicitation Fee, is granted; that Aptive is granted judgment as a matter of law declaring: (A) that the Village's Solicitation Fee, found at §§ 171-3 and 171-5(A) of the Village Code, violates the First Amendment rights of Aptive, others similarly situated, and Village residents, both facially and as applied, and (B) that the Village, and its agents and employees, are permanently enjoined from enforcing the Solicitation Fee found at §§ 171-3 and 171-5(A) of the Village Code against Aptive and others similarly situated; that plaintiff Aptive's remaining claim for damages is dismissed; and that this case is closed.

Dated: March 22, 2021
Central Islip, New York

DOUGLAS C. PALMER
CLERK OF THE COURT
By: /s/ James J. Toritto
Deputy Clerk